DETAILED ACTION

1. The Final Rejection of 11 May 2009 is hereby withdrawn.

2. Applicant's Amendment filed 19 March 2010 is acknowledged.

3. Claims 1-14 are pending in the present application.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
     obviousness or nonobviousness.

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hasegawa et al. (US 20020056117 A1) in view of Nishimoto et al. (US 20020000156

A1) and in further view of Dewing et al. (US 20040068532 A1).

Consider claims 1, 5, 6 and 10-14. Hasegawa et al. discloses a content delivery apparatus comprising a storage section that stores content material to be delivered to a client terminal (("According to one aspect of the present invention, there is provided a music data distribution system for distributing music data to an external device connected to a network, comprises: a storage device that stores first music data; a receiver that receives a music data distribution request from the external device connected to the network, the music data distribution request comprising at least music data identification information and music data quality information; a reading device that reads the first music data from said storage device in accordance with the music data identification information; a quality converter that converts the first music data into second music data ...") Hasegawa et al., paragraph 0014); a client terminal identification section that determines a type of a client terminal to which content is to be delivered (("The music data request information RI and terminal information TI are integrated as one data block as shown in FIG. 5. The music data request information to be entered by the user contains the information for identifying music data desired to be downloaded, such as a music program name and a singer name of the music data. The terminal information TI is stored beforehand in ROM 12 or the external storage unit 16 of the user terminal 4, and contains the information for identifying the product type of the user terminal 4, such as the product type name specific to the user terminal 4.") Hasegawa et al., paragraph 0058); a first content creation section that, on the basis of a determination, by said client terminal identification section, that said client terminal to

which content is to be delivered is of a type capable of using said first content material
of said first format, creates single composite content to be delivered to said client
terminal which includes said first content material of said first format and said second
content material (("According to another aspect of the invention, there is provided a
music data distribution system for distributing music data to an external device
connected to a network, comprises: a storage device that stores first music data; a
receiver that receives a music data distribution request from the external device
connected to the network, the music data distribution request comprising at least music
data identification information and device identification information; a searching device
that searches the first music data from said storage device in accordance with the music
data identification information; a quality determiner that determines a quality of said
music data which can be reproduced by said external device; and a transmitter that
transmits information displayed on a display of said external device for promoting
purchase of said music data with the quality determined by said quality determiner to
said external device.") Hasegawa et al., paragraph 0015); a second content creation
section that, on the basis of a determination, by said client terminal identification
section, that said client terminal to which content is to be delivered is of a type incapable
of using said first content material of said first format, converts said first content material
of said first format into a first content material of a second format capable of being used
by said client terminal and then creates single composite content to be delivered to said
client terminal which includes the converted first content material of said second format
and said second content material (("… a quality converter that converts the first music

data into second music data having a quality different from the first music data in accordance with the music data quality information; ...") Hasegawa et al., paragraph 0014); and a content delivery section that delivers, to said client terminal, the composite content created by said first content creation section or said second content creation section (("... and a transmitter that transmits the first or the second music data to the external device in accordance with contents of the music data distribution request.") Hasegawa et al., paragraph 0014).

However, Hasegawa et al. fails to explicitly show a first and a second content data, or encrypting content.

Nishimoto et al. discloses music data as either scores or pieces. This reads on "... at least one first content material and at least one second content material ... said first content material being of a predetermined first format." (("... musical composition information of a single music piece with the received melody information used as a motif thereof; other melody information made by modifying the received melody information; information made by converting waveform data of the received melody information into tone-generator driving information of a predetermined format; and musical score picture information corresponding to at least one of the information listed above.") paragraph 0037). Nishimoto et al. further discloses encrypting data (("Further, the data to be communicated in the present invention may be of any desired format. For example, the music piece data may be based on the MIDI standard (e.g., SMF: Standard MIDI File) or other format (e.g., format specific to the maker or manufacturer). The musical score data may be image data (e.g., bit map), may be of any other suitable format (e.g., file

format capable of being handled by predetermined score-creating or score-displaying

software), may be electronic data, or may be printed on a sheet of paper or the like; if

the musical score data are electronic data, they may be either in a compressed form or

in a non-compressed form. Furthermore, the data may be encrypted or imparted with an

electronic signature. Moreover, the data format of content may be selected as desired

by the user, and data of a plurality of formats may be delivered simultaneously.")

paragraph 0137). Therefore, it would have been obvious for a person of ordinary skill in

the art at the time the invention was made to incorporate musical pieces and musical

scores and encrypting data as taught by Nishimoto et al. with first and second content

data stored in a storage device as taught by Hasegawa et al. for the purpose of

interactive multimedia.

      However, Hasegawa et al., as modified by Nishimoto et al. fails to disclose a

method wherein a transmission section that transmits, to a client terminal, a list of titles

of a plurality of composite content; a delivery request reception section that receives,

from the client terminal, a request for delivery of one composite content selected via the

client terminal from said list of titles: a storage section that stores plurality of first content

material and at least one second content materials of a first format and a plurality of

second content materials a first content material extraction section that, in response to

the request for delivery, extracts a first content material to be contained in the requested

one composite content from among the plurality of first content materials stored in said

storage section: a second content material extraction section that, in response to the

request for delivery, extracts a second content material to be contained in the requested

one composite content from among the plurality of second content materials stored in said storage section.

Dewing et al. discloses a system for supporting production, management and delivery of media content for wireless devices comprising a method wherein a transmission section that transmits, to a client terminal, a list of titles of a plurality of composite content; a delivery request reception section that receives, from the client terminal, a request for delivery of one composite content selected via the client terminal from said list of titles (("The manage content interface (FIG. 14) provides a list of titles currently in the category, and allows for the addition of titles. Selecting the "add titles" option causes the system to present a title selector interface (FIG. 15). This interface allows the contact 94 to select a title from the list of available content for the platforms, products and networks associated with this category and catalog. The available list is further restricted based on the rating for the title. The contact can view this available list of titles in a number of ways.") paragraph 0127); a storage section that stores plurality of first content material and at least one second content materials of a first format and a plurality of second content materials; a first content material extraction section that, in response to the request for delivery, extracts a first content material to be contained in the requested one composite content from among the plurality of first content materials stored in said storage section: a second content material extraction section that, in response to the request for delivery, extracts a second content material to be contained in the requested one composite content from among the plurality of second content materials stored in said storage section (("In a first aspect, the invention relates to a

system for making one or more pieces of media content available for delivery to an end-user device. The system includes a file server with a plurality of media content files stored therein and a database. The database associates content type attributes with each of the media content files and attribute capability constraints with the end-user device. The attribute capability constraints prescribe a range of acceptable values for content type attributes. The system also includes a first rules engine that creates an available library of media content that excludes all media content that have content type attributes outside the range of acceptable values. In another aspect of the system, the database associates a carrier network with the end-user device. The carrier network, in turn, has an associated delivery channel capacity. The system further includes a second rules engine adapted to refine the available library to exclude all media content not supported by the delivery channel of the end-user device.") paragraphs 0008-0009).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a method wherein a transmission section that transmits, to a client terminal, a list of titles of a plurality of composite content; a delivery request reception section that receives, from the client terminal, a request for delivery of one composite content selected via the client terminal from said list of titles: a storage section that stores plurality of first content material and at least one second content materials of a first format and a plurality of second content materials a first content material extraction section that, in response to the request for delivery, extracts a first content material to be contained in the requested one composite content from among the plurality of first content materials stored in said storage section:

a second content material extraction section that, in response to the request for delivery, extracts a second content material to be contained in the requested one composite content from among the plurality of second content materials stored in said storage section as taught by Dewing et al. with musical pieces and musical scores and encrypting data and first and second content data stored in a storage device as taught by Hasegawa et al., as modified by Nishimoto et al., for the purpose of content delivery methods.

Consider claims 2 and 7, and as applied to claims 1 and 6 above. Hasegawa et al., as modified by Dewing et al., discloses a content delivery apparatus wherein said first content material and second content material is delivered to a client in a predetermined format.

However, Hasegawa et al., as modified by Dewing et al., fails to teach of the data comprising musical format.

Nishimoto et al. discloses a music data distribution system comprising musical pieces and scores. This reads on "A content delivery apparatus wherein said first content material is musical score data, and said second content material is music piece data." (("Outlining the fourth aspect, the content information created by the processor device and having the additional value imparted thereto includes at least one of: harmony information matching with the received melody information; backing information matching with the received melody information; left-hand performance

information matching with the received melody information, with the received melody information assumed to be performance information generated through a performance on a keyboard-based musical instrument by a right hand; both-hand performance information matching with the received melody information; performance expression information for the received melody information; musical composition information of a single music piece with the received melody information used as a motif thereof; other melody information made by modifying the received melody information; information made by converting waveform data of the received melody information into tone-generator driving information of a predetermined format; and musical score picture information corresponding to at least one of the information listed above.") paragraph 0037).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a music data distribution system as taught by Nishimoto et al. with a content delivery apparatus as taught by Hasegawa et al., as modified by Dewing et al., for the purpose of electronic file delivery.

Consider claims 3 and 8, and as applied to claims 2 and 7 above. Hasegawa et al., as modified by Dewing et al., discloses a content delivery apparatus wherein said first content material and second content material is delivered to a client in a predetermined format.

However, Hasegawa et al., as modified by Dewing et al., fails to teach of data comprising musical format wherein musical pieces and musical scores correspond.

Nishimoto et al. discloses a music data distribution system comprising musical pieces and scores that correspond with each other. This reads on "A content delivery apparatus as claimed in claim 2 wherein the musical score data and the music piece data correspond to each other in musical contents." (("On the "Parameter 2" input screen of FIG. 6, the user enters various parameters necessary for creating music piece data of the left-hand performance part in response to the selective designation on the "Parameter 1" input screen of FIG. 5. In the illustrated example of FIG. 6, selections have been made for setting the difficulty level to the "Beginner's Level" and the rendition style to "Arpeggio" and for imparting "Intro" and "Ending" sections to the melody. In response to the selections on the "Parameter 2" input screen, the server 3 is caused to create music piece data and corresponding musical score data of the beginner's level in such a way that an arpeggio is imparted as the rendition style and intro and ending sections are imparted to the melody.") paragraph 0074).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate corresponding musical pieces with musical scores as taught by Nishimoto et al. with a content delivery apparatus as taught by Hasegawa et al., as modified by Dewing et al., for the purpose of multimedia content.

Consider claims 4 and 9, and as applied to claims 1 and 6 above. Hasegawa et al., as modified by Nishimoto et al. and Dewing et al., discloses a content delivery apparatus comprising: a storage section that stores a plurality of the first content materials and a plurality of the second content materials (("A music data distribution apparatus connected to a network for distributing music data to an external device, the apparatus comprising: a storage device that stores a plurality of music data;") Hasegawa et al., Claim 1), and wherein at least one first content material and at least one second content material to be delivered to said client terminal are read out from said storage section in response to a request made by said client terminal ((" According to one aspect of the present invention, there is provided a music data distribution system for distributing music data to an external device connected to a network, comprises: a storage device that stores first music data; a receiver that receives a music data distribution request from the external device connected to the network, the music data distribution request comprising at least music data identification information and music data quality information; a reading device that reads the first music data from said storage device in accordance with the music data identification information; a quality converter that converts the first music data into second music data having a quality different from the first music data in accordance with the music data quality information; and a transmitter that transmits the first or the second music data to the external device in accordance with contents of the music data distribution request.") Hasegawa et al., paragraph 0014).

Response to Arguments

6.   Applicant's arguments filed 19 March 2010 with respect to claims 1-14 have been

considered but are moot in view of the new ground(s) of rejection.

Conclusion

7.   Any response to this Office Action should be faxed to (571) 273-8300 or mailed

to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Mark Fearer whose telephone number is (571) 270-

1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to

5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
/M.D.F./
March 31, 2010

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443